

STATE OF NEBRASKA



Mike Johanns
Governor

Mr. Martin J. Virgilio
Director

Office of Nuclear Material Safety and Safeguards
c/o Document Control Desk
U.S. Nuclear Regulatory Commission
Washington, DC 20555

DEPARTMENT OF ENVIRONMENTAL QUALITY

Michael J. Linder

Director

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Dear Mr. Virgilio:

The Nebraska Department of Environmental Quality (NDEQ) has reviewed the meeting summary of the discussions that took place between several non-Agreement States, the EPA and the NRC on June 11, 2002 in Denver, Colorado. The Department promulgated rules and regulations specifically for In Situ Uranium (ISL) recovery in 1982 and was granted primacy of the Underground Injection Control (UIC) Program by the EPA in 1984. During the initial stages of the ISL industry operating in our state, the Department worked closely with both the EPA and the NRC to ensure the safety of the public and the water quality of our State. The Department feels that over the last 20 years we have developed a very strong UIC Program for regulating the ISL industry as far as ground water protection and well construction/maintenance issues are concerned.

Throughout the lifetime of Nebraska's only permitted ISL facility (Crow Butte Resources, Inc. (CBR)) the Department was well aware of the dual regulation that was placed on CBR by the NRC and the NDEQ. However, it was not until November 1999 when the NDEQ approved the restoration of Mine Unit #1 at CBR that this dual regulation was readily apparent.

During the June 11th meeting, it was proposed by the NRC to retain its authority to regulate ground water protection of ISL facilities but to defer active regulation of ground water protection to the State of Nebraska's UIC Program. This deferral would have to be implemented through a Memoranda of Understanding (MOU) with the State of Nebraska.

The Department would like to take this opportunity to endorse the MOU approach as a viable solution to the dual regulation dilemma. Please let us know what the next steps are in this process so that we can assist in the development of the MOU.

If you have any questions or comments concerning this letter or the NDEQ's rules and regulations pertaining to ISL facility, please contact David Miesbach of my staff at (402) 471-4982. Thank you in advance for your consideration.

Sincerely

Michael J. Linder
Director

NMSSol Public

Add: STP mail Center



The State
of Wyoming



Department of Environmental Quality

Jim Gennger, Governor

Herschler Building • 122 West 25th Street • Cheyenne, Wyoming 82002

ADMIN/OUTREACH	ABANDONED MINES	AIR QUALITY	INDUSTRIAL SITING	LAND QUALITY	SOLID & HAZ. WASTE	WATER QUALITY
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August 9, 2002

Michael Layton
Nuclear Regulatory Commission
OWFN
11555 Rockville Pike
Rockville, MD 20852

RE: Memorandum of Understanding Concerning Uranium In Situ Leach Operations

Dear Mr. Layton:

This letter confirms our earlier telephone conversation concerning Wyoming's desire to pursue a Memorandum of Understanding (MOU) with the Nuclear Regulatory Commission (NRC). The purpose of the MOU is to minimize duplication of effort concerning the regulation of ground water in situ leach operations. With the MOU, the NRC would compare the state's technical review with the NRC Standard Review Plan and rely upon the state's analysis for NRC licensing actions.

We support this concept and look forward working with you in this endeavor.

Sincerely,


Richard A. Chancellor
Administrator
Land Quality Division

xc: Roberta Hoy



October 18, 2002

Mr. Michael Layton
U.S. Nuclear Regulatory Commission
11555 Rockville Pike
Rockville, MD 20852

RE: Memoranda of Understanding on In Situ Leach Facilities

Dear Mike:

This purpose of this letter is to express the National Mining Association's (NMA) support for the development of memoranda of understanding (MOU) between the Nuclear Regulatory Commission (NRC) and individual states to reduce dual jurisdiction over in situ leach (ISL) facilities. NMA reviewed the meeting summary of discussions held between NRC, several non-Agreement States and the Environmental Protection Agency (EPA) in June and agrees that the MOU approach with individual states such as Wyoming and Nebraska is appropriate. This dual jurisdiction over wellfields significantly increases the costs for uranium producers and is truly a waste of licensee, NRC and state resources.

Of course, the issue of dual jurisdiction would be moot if NRC would accept NMA's position that NRC should have no jurisdiction over ISL mining until the ore reaches the ion exchange column or perhaps later. Given NRC's continued reluctance to accept that position, other ways to minimize overlapping jurisdiction should be to be examined. The concept of a MOU to achieve the goal of minimizing overlapping jurisdiction was first raised at a NRC staff/industry meeting held in Riverton, Wyoming in 1997. At that time, NRC staff were looking at developing a chapter in NRC inspection manual and attempting to determine whether the states were already addressing the necessary components; staff indicated that if the state covered all the issues NRC had to cover, then NRC could rely on the state. In the intervening years, both industry and the Commission itself have asked staff to determine a way to proceed with the MOU concept. NMA is pleased the idea is finally coming to fruition.

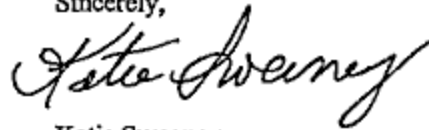
It is a logical step for NRC to develop MOUs that would allow NRC to defer active regulation of groundwater protection to the states. ISL wellfields are already adequately regulated; regulation of ISL wellfields extends far beyond the requirements of the EPA's UIC program - there are separate state regulations specific to ISL mining, control of wellfield operations and groundwater restoration. NMA urges NRC to develop the MOUs with Wyoming and Nebraska in an expedient manner to prevent further squandering of licensee, NRC, and state resources.

National Mining Association 401 Constitution Avenue, NW | Suite 500 East | Washington, DC 20001 | ph 202.463.2625 | fx 202.463.2614

Nm5522
Add: Judy Muszkewicz

If you have any questions, please contact me at 202/463-2627.

Sincerely,

A handwritten signature in cursive script, reading "Katie Sweeney".

Katie Sweeney
Associate General Counsel